

Frequently Asked Questions

“What are Victims’ Rights?”

- In Arizona, victims of crime have legal and constitutional rights. Victims’ Bills of Rights are contained in Article II, Section 2.1 of the Arizona Constitution. Arizona Revised Statutes contain all Crime Victims’ Rights laws under Title 13, Chapter 40. As a victim, you have automatic rights **and** rights you must request.

The following are just some of the automatic rights given to you as a crime victim:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.
3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
4. To be heard at any proceeding involving a post arrest decision, a negotiated plea, and sentencing.
5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant’s attorney, or other person acting on behalf of the defendant.

The following are just a few of the rights you must request:

1. To confer with the prosecutor about a decision not to proceed with a prosecution, dismissal of the charges, pre-trial diversion program, any plea or sentencing negotiations, and at any hearing regarding the release of the defendant. You also have the right to confer with the prosecutor prior to trial.
2. To receive a copy of the conditions of the defendant’s release from custody.
3. To be advised of the sentence imposed upon the defendant.
4. To be given notice of any post-conviction release or appeals proceeding.
5. Notice of any probation revocation disposition or probation termination proceeding.

**For a copy of all Victims’ Rights, you may contact Adult Probation Victim Services
Unit at 602-372-8286.**

“How do I opt in for post conviction rights?”

- You must contact the prosecuting agency (County Attorney or Attorney General) that handled the case. Once the defendant is sentenced, the agency will send you a post conviction notification request form. If you don’t receive this, please contact the agency at the numbers listed on this site.

“What agency is responsible for notifying me once I opt in?”

- Different agencies are responsible for Victims’ Rights. For instance, law enforcement, the County Attorney, Department of Corrections, Adult Probation Department, Sheriff’s Office, Executive Board of Clemency, and the Attorney General all have legal mandates to a crime victim or an opted in victim. Depending on the stage of the case or what the sentence result is, determines the agency responsible for adhering to those rights.

“If the defendant is revoked from probation and sent to the Arizona Department of Corrections, how do I obtain additional information?”

- The Department of Corrections has a website at www.adc.state.az.us. To speak to someone about notification or other victim related issues, you may call 602-542-5586.

“Once a crime occurs, what happens next?”

- It depends on whether the crime is a misdemeanor or a felony and what jurisdiction the crime occurred in. It is best to contact the investigating police officer to find out where the case or charge was submitted. For example, if it was submitted to a city or justice court, the charge is probably a misdemeanor. If the crime occurred in Mesa, for example, the City of Mesa court retains jurisdiction. If it was submitted to the County Attorney, the charge is probably a felony and Superior Court retains jurisdiction. If it was submitted to US District Court or Federal Court, that court retains jurisdiction. The investigating officer should be able to tell you where the case was submitted. From there, you should contact the agency handling the case for the next step.

“What is the difference between parole and probation?”

Parole is the release from prison after serving the imposed sentence. It is a conditional release from prison granted by the Board of Executive Clemency. The offender will be under the supervision of a parole officer. Parole can be revoked if the offender fails to observe the conditions of a parole order.

Probation is a conditional suspension of an imposed sentence. If completed successfully, sentence is not imposed, but if it is revoked, the sentence is imposed. Probation is subject to supervision from a probation officer and the probationer must follow probation conditions. It is a substitute for a prison term, which is contingent upon good behavior. Probation can include jail time, treatment, restitution, and/or other special terms & conditions.

“What is the difference between jail and prison?”

- A general rule is: if the defendant is sentenced to jail, the incarceration time will be under a year. If sentenced to prison (Department of Corrections), incarceration is over a year. If an offender is awaiting sentencing, they are probably in jail and not prison, unless the offender is in prison for other charges. There are some cases such as felony DUI's that requires four months in prison and upon release will have parole and/or probation supervision. Other cases, such as child molestation or sexual abuse cases, the County Attorney may sentence an offender to prison on one count and probation on another count within one case.

“Where can I find other services?”

- The Victim Services Unit included other available resources at the end of this handbook.

“How come not all sex offenders have to register?”

- Arizona law passed in 1996 which requires all defendants of certain sex offenses to register. The law also applies to those cases sentenced before 1996, making it retroactive. There is a difference between registration and notification.

The registration requirement is as follows:

1. Offender must register in person and in writing with the sheriff's office in the county where they reside
2. Offender must register within 10 days either after the conviction or after entering and remaining in any county of this state
3. Offender must register within 72 hours after moving within a county or upon a name change

The notification requirement is as follows:

1. Level Zero-registration only (not subject to notification)
2. Level 1-Everyone who lives in the home with the offender or in home notification only
3. Level 2-Intermediate risk to the community. Immediate neighbors and possibly community notification
4. Level 3-High risk to the community. Mandatory community notification. Surrounding neighbors.

“What types of sexual crimes have criteria to be considered a sex offense?”

- Unlawful imprisonment, if victim is under 18
- Kidnapping, if victim is under 18
- Sexual abuse, if victim is under 18, continuous sexual abuse of a child
- Sexual conduct with a minor, sexual assault, sexual assault of a spouse, molestation of a child
- Child prostitution, commercial sexual exploitation of a child, sexual exploitation of a minor, luring a minor for a sexual exploitation
- A second or third conviction of felony/misdemeanor public sexual indecency, a second or third conviction of felony/misdemeanor indecent exposure
- Failure to register as a sex offender

“How come some DUI charges are felonies and some are misdemeanors?”

- The determining factor of whether or not a DUI will be a felony or misdemeanor is based heavily on the blood alcohol content of the offender. In October 2000, President Clinton signed a new law that requires all states to adopt a .08 BAC (Blood Alcohol Content) as the legal limit. In Arizona, the state adopted an Extreme DUI law which states a driver with a blood alcohol content of more than .15 will be charged with Driving under the Extreme Influence. If convicted, the penalties increase in fines and in jail time. Aggravated DUI becomes a felony when the accused commits the DUI within 5 years of a previous DUI charge, while driving on a suspended license, and if a person under the age of 15 is in the vehicle at the time. Aggravated DUI's carry an initial mandatory sentence of 4 months in the Department of Corrections (prison, not jail). This could be followed with probation supervision.